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16 UNITED STATES DISTRICT COURT
17 NORTHERN DISTRICT OF CALIFORNIA
18 SAN FRANCISCO DIVISION

19 Dave Brown,

20 Plaintiff,

21 vs.

22 Mercantile Adjustment Bureau, LLC,

23 Defendant.

Case No.: 3:15-cv-04089

COMPLAINT FOR DAMAGES

FOR VIOLATIONS OF:

- 1. THE FAIR DEBT COLLECTION PRACTICES ACT; AND**
- 2. THE ROSENTHAL FAIR DEBT COLLECTION PRACTICES ACT**

JURY TRIAL DEMANDED

1 Plaintiff, Dave Brown (hereafter “Plaintiff”), by undersigned counsel, brings
2 the following complaint against Mercantile Adjustment Bureau, LLC (hereafter
3 “Defendant”) and alleges as follows:
4

5 **JURISDICTION**

6 1. This action arises out of Defendant’s repeated violations of the Fair Debt
7 Collection Practices Act, 15 U.S.C. § 1692, *et seq.* (“FDCPA”), and repeated
8 violations of the Rosenthal Fair Debt Collection Practices Act, Cal. Civ. Code § 1788,
9 *et seq.* (“Rosenthal Act”).
10
11

12 2. Jurisdiction of this Court arises under 15 U.S.C. § 1692k(d), Cal. Civ.
13 Code 1788.30(f), 28 U.S.C. § 1331 and 28 U.S.C. § 1367.
14

15 3. Venue is proper before this Court pursuant to 28 U.S.C. § 1391(b), where
16 the acts and transactions giving rise to Plaintiff’s action occurred in this district and/or
17 where Defendant transacts business in this district.
18

19 **PARTIES**

20 4. Plaintiff is an adult individual residing in Pittsburg, California, and is a
21 “person” as defined by 47 U.S.C. § 153(39) and Cal Civ. Code § 1788.2(g).
22

23 5. Plaintiff is a “consumer” as defined by 15 U.S.C. § 1692a(3), and is a
24 “debtor” as defined by Cal. Civ. Code § 1788.2(h).
25

26 6. Defendant is a business entity located in Williamsville, New York, and is
27 a “person” as the term is defined by 47 U.S.C. § 153(39) and Cal Civ. Code §
28 1788.2(g).

1 7. Defendant uses instrumentalities of interstate commerce or the mails in a
2 business the principle purpose of which is the collection of debts and/or regularly
3 collects or attempts to collect debts owed or asserted to be owed to another, and is a
4 “debt collector” as defined by 15 U.S.C. § 1692a(6).
5

6 8. Defendant, in the ordinary course of business, regularly, on behalf of
7 itself or others, engages in the collection of consumer debts, and is a “debt collector”
8 as defined by Cal. Civ. Code § 1788.2(c).
9

10
11 **ALLEGATIONS APPLICABLE TO ALL COUNTS**
12

13 9. Plaintiff is a natural person allegedly obligated to pay a debt asserted to
14 be owed to a creditor other than Defendant.

15 10. Plaintiff’s alleged obligation arises from a transaction in which property,
16 services or money was acquired on credit primarily for personal, family or household
17 purposes, is a “debt” as defined by 15 U.S.C. § 1692a(5), and is a “consumer debt” as
18 defined by Cal. Civ. Code § 1788.2(f).
19

20 11. At all times mentioned herein where Defendant communicated with any
21 person via telephone, such communication was done via Defendant’s agent,
22 representative or employee.
23

24 12. Within the past year, Defendant contacted Plaintiff in an attempt to
25 collect a debt alleged to be owed to Key Bank.
26
27
28

14. During a live conversation in May of 2015, Plaintiff explained to Defendant that the alleged debt had been discharged in bankruptcy.

15. Defendant responded by falsely stating that the debt had nothing to do with the bankruptcy and claimed that Plaintiff still owed the debt.

16. Plaintiff incorporates by reference all of the above paragraphs of this complaint as though fully stated herein.

17. The FDCPA was passed in order to protect consumers from the use of abusive, deceptive and unfair debt collection practices and in order to eliminate such practices.

18. Defendant attempted to collect a debt from Plaintiff and engaged in “communications” as defined by 15 U.S.C. § 1692a(2).

19. The Defendants engaged in behavior the natural consequence of which was to harass, oppress, or abuse the Plaintiff in connection with the collection of a debt, in violation of 15 U.S.C. § 1692d.

21. The Defendants misrepresented the character, amount and legal status of the debt, in violation of 15 U.S.C. § 1692e(2).

8 22. The Defendants employed false and deceptive means to collect a debt, in
9 violation of 15 U.S.C. § 1692e(10).

23. The foregoing acts and/or omissions of Defendant constitute numerous
and multiple violations of the FDCPA, including every one of the above-cited
provisions.

15 24. Plaintiff was harmed and is entitled to damages as a result of Defendant's
16 violations.

**VIOLATIONS OF THE ROSENTHAL FAIR DEBT COLLECTION
PRACTICES ACT, Cal. Civ. Code § 1788, et seq.**

21 25. Plaintiff incorporates by reference all of the above paragraphs of this
22
23 complaint as though fully stated herein.

24 26. The Rosenthal Act was passed to prohibit debt collectors from engaging
25 in unfair and deceptive acts and practices in the collection of consumer debts.

27 27. Defendant did not comply with the provisions of 15 U.S.C. § 1692, *et*
28 *seq.*, in violation of Cal. Civ. Code § 1788.17.

28. Plaintiff was harmed and is entitled to damages as a result of Defendant's

WHEREFORE, Plaintiff prays for judgment against Defendant for:

- A. Actual damages pursuant to 15 U.S.C. § 1692k(a)(1);
- B. Statutory damages of \$1,000.00 pursuant to 15 U.S.C. §1692k(a)(2)(A);
- C. Actual damages pursuant to Cal. Civ. Code § 1788.30(a);
- D. Statutory damages of \$1,000.00 for knowingly and willfully committing violations pursuant to Cal. Civ. Code § 1788.30(b);
- E. Costs of litigation and reasonable attorneys' fees pursuant to 15 U.S.C. § 1692k(a)(3) and Cal. Civ. Code § 1788.30(c);
- F. Punitive damages; and
- G. Such other and further relief as may be just and proper.

TRIAL BY JURY DEMANDED ON ALL COUNTS

TRINETTE G. KENT

By: /s/ Trinette G. Kent
Trinette G. Kent, Esq.
Lemberg Law, LLC
Attorney for Plaintiff, Dave Brown